

**Representative Kim Coleman** proposes the following substitute bill:

**VEHICLE TOWING AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim Coleman**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tow truck operations.

**Highlighted Provisions:**

This bill:

- ▶ enacts provisions requiring tow truck drivers to have a criminal background check before performing tow truck services; and
- ▶ enacts provisions related to towing vehicles from private parking lots.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**41-6a-1407**, as renumbered and amended by Laws of Utah 2005, Chapter 2

**72-9-601**, as last amended by Laws of Utah 2005, Chapter 2

**72-9-602**, as last amended by Laws of Utah 2009, Chapter 183

**72-9-603**, as last amended by Laws of Utah 2014, Chapter 249

ENACTS:



26 [72-9-602.5](#), Utah Code Annotated 1953

27  
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **41-6a-1407** is amended to read:

30 **41-6a-1407. Removal of unattended vehicles prohibited without authorization --**  
31 **Penalties.**

32 (1) In cases not amounting to burglary or theft of a vehicle, a person may not remove  
33 an unattended vehicle without prior authorization of:

34 (a) a peace officer;

35 (b) a law enforcement agency;

36 (c) a highway authority having jurisdiction over the highway on which there is an  
37 unattended vehicle; or

38 (d) the owner or person in lawful possession or control of the real property.

39 (2) (a) An authorization from a person specified under Subsection (1)(a), (b), or (c)  
40 shall be in a form specified by the Motor Vehicle Division.

41 (b) The removal of the unattended vehicle shall comply with requirements of Section  
42 [41-6a-1406](#).

43 (3) The removal of the unattended vehicle authorized under Subsection (1)(d) shall  
44 comply with the requirements of [Section] Sections [72-9-602.5](#) and [72-9-603](#).

45 (4) A person who violates Subsection (1) or (3) is guilty of a class C misdemeanor.

46 Section 2. Section **72-9-601** is amended to read:

47 **72-9-601. Tow truck motor carrier requirements -- Authorized towing**  
48 **certificates.**

49 (1) In addition to the requirements of this chapter, a tow truck motor carrier shall:

50 (a) ensure that all the motor carrier's tow truck drivers are properly:

51 (i) trained to operate tow truck equipment;

52 (ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act; ~~[and]~~

53 (iii) certified, as described in Section [72-9-602](#); and

54 ~~[(iii)]~~ (iv) complying with the requirements under Sections [41-6a-1406](#) and [72-9-603](#);

55 ~~[and]~~

56 (b) ensure that employees of the tow truck motor carrier have cleared the criminal

background check as described in Subsections [72-9-602](#)(3) through (6); and

~~[(b)]~~ (c) obtain and display a current authorized towing certificate for the tow truck motor carrier, and each tow truck and driver, as required under Section [72-9-602](#).

(2) A tow truck motor carrier may only perform a towing service described in Section [41-6a-1406](#), [41-6a-1407](#), or [72-9-603](#), with a tow truck and driver that has a current authorized towing certificate under this part.

Section 3. Section **72-9-602** is amended to read:

**72-9-602. Towing inspections, investigations, and certification -- Equipment requirements -- Consumer information.**

(1) (a) The department shall inspect, investigate, and certify tow truck motor carriers, tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with Sections [41-6a-1406](#) and [41-6a-1407](#).

(b) The inspection, investigation, and certification shall be conducted prior to any tow truck operation and at least every two years thereafter.

(c) (i) The department shall issue an authorized towing certificate for each tow truck motor carrier, tow truck, and driver that complies with this part.

(ii) The certificate shall expire two years from the month of issuance.

(d) The department may charge a biennial fee established under Section [63J-1-504](#) to cover the cost of the inspection, investigation, and certification required under this part.

(2) The department shall make consumer protection information available to the public that may use a tow truck motor carrier.

(3) (a) At the tow truck driver's expense, a tow truck driver shall obtain a criminal background check of Utah criminal history from the Bureau of Criminal Identification, and provide a copy of the criminal background check to the department.

(b) The department shall ensure that a tow truck driver has submitted the criminal background check described in this Subsection (3) as a condition of the tow truck driver's initial and biennial certification.

(c) The department may deny a tow truck driver's certification if the tow truck driver has been convicted of any felony offense within the previous five years that involves a motor vehicle, fraud, or theft.

(4) (a) An employee of a tow truck motor carrier who has access to a motor vehicle,

vessel, or outboard motor that has been towed shall obtain a criminal background check of Utah criminal history from the Bureau of Criminal Identification, and provide a copy of the criminal background check to the department.

(b) The department shall ensure that each tow truck motor carrier employee described in Subsection (4)(a) has submitted the criminal background check described in this Subsection (3) as a condition of the tow truck motor carrier's certification.

(c) The department may deny a tow truck motor carrier's certification if the tow truck motor carrier has not terminated an employee, described in Subsection (4)(a), who has been convicted of any felony offense within the previous five years that involves a motor vehicle, fraud, or theft.

(5) The department may deny a tow truck motor carrier's certification if the department has evidence that a tow truck motor carrier's tow truck driver is not providing copies of the Utah Consumer Bill of Rights Regarding Towing to owners, as described in Subsection 72-9-603(1)(c).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the inspection, investigation, and certification procedures described in this section.

Section 4. Section 72-9-602.5 is enacted to read:

**72-9-602.5. Towing from a private parking lot -- Notice requirements.**

(1) For purposes of this section:

(a) "Private parking lot owner" includes a lessee of the private parking lot owner.

(b) "Vehicle" means a motor vehicle, vessel, or outboard motor.

(2) A tow truck driver may not tow a vehicle from a private parking lot, without the vehicle owner's consent, unless:

(a) the tow truck driver or tow truck motor carrier has entered into a written contract with the private parking lot owner for tow truck services on the lot;

(b) the private parking lot owner has provided:

(i) a physical barricade intended to prevent vehicular access to the lot; or

(ii) notice as described in Subsection (4); or

(c) the tow truck driver obtains written authorization from:

(i) the private parking lot owner;

119 (ii) an individual in lawful possession of the private parking lot; or

120 (iii) an employee or agent of the private parking lot owner.

121 (3) For purposes of Subsection (2)(c):

122 (a) the private parking lot owner's employee or agent may not be the tow truck driver or  
123 a tow truck motor carrier's employee or agent.

124 (b) the written authorization may be made by a tenant who verifies the violation at a  
125 residential rental property of 15 or fewer units that does not have an on-site owner, an on-site  
126 agent, or an on-site employee, and the violation occurs in the tenant's assigned parking space;  
127 and

128 (d) the written authorization shall include:

129 (i) the make, model, vehicle identification number, and license plate number of the  
130 removed vehicle;

131 (ii) the name, signature, job title, residential or business address, and working  
132 telephone number of the individual authorizing the removal;

133 (iii) the grounds for removal of the vehicle and the method by which the vehicle owner  
134 was notified that the vehicle would be towed at the vehicle owner's expense;

135 (iv) the time when the vehicle was first observed parked in the parking lot; and

136 (v) the time the authorization to tow was given.

137 (4) A private parking lot owner is considered to have provided notice for the purpose  
138 of this chapter if the private parking lot owner:

139 (a) erects signage or placards visible from areas available for parking in a private  
140 parking lot, and at each location within the lot where a special parking restriction applies,  
141 calculated to offer notice to vehicle owners that a vehicle may be towed at the owner's expense;

142 (b) affixes a written notice to the vehicle, warning the vehicle owner that if the owner  
143 does not remove the vehicle from the private property within 24 hours, the vehicle will be  
144 towed to an impound lot at the owner's expense; or

145 (c) has provided personal notice to the vehicle owner that the vehicle will be towed  
146 unless it is immediately removed from the private parking lot.

147 (5) Subsection (2) does not limit or affect any right or remedy that the private parking  
148 lot owner may have under other provisions of the law that authorize the removal of a vehicle  
149 upon private property.

(6) (a) When the vehicle owner or the vehicle owner's agent claims the vehicle, the tow truck motor carrier shall provide a photocopy of the written authorization described in Subsection (2)(c) to the vehicle owner or vehicle owner's agent prior to payment of a towing or storage charge.

(b) Subsection (6)(a) does not apply if the private parking lot owner has erected the signage described in Subsection (4) and that signage displays the name of the authorized tow truck driver or tow truck motor carrier.

Section 5. Section **72-9-603** is amended to read:

**72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck ~~operator~~ driver or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection ~~41-6a-1406~~(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's address to the current address, notifying the owner

of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) ~~[(a)]~~ Until the tow truck ~~[operator]~~ driver or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck ~~[operator]~~ driver, tow truck motor carrier, or impound yard may not:

~~[(i)]~~ (a) collect any fee associated with the removal; or

~~[(ii)]~~ (b) begin charging storage fees.

~~[(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):]~~

~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

~~[(B) a multifamily dwelling of more than eight units.]~~

~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

~~[(A) where parking is subject to towing; and]~~

~~[(B) (i) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or]~~

~~[(H) one of the following:]~~

~~[(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or]~~

~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~

~~number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.]~~

~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~

~~[(i) that is prohibited by law; or]~~

~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.]~~

(3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life essential items that are owned by the owner of the vehicle and securely stored by the tow truck operator, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck ~~[operator]~~ driver, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(c) A tow truck driver, a tow truck motor carrier, or an impound yard may charge a 3% credit card processing fee.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:



243 (A) a peace officer dispatch call;  
244 (B) a motor vehicle division call; and  
245 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor  
246 has not consented to the removal; and  
247 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor  
248 stored as a result of one of the conditions listed under Subsection (7)(a)(i);  
249 (b) establish authorized towing certification requirements, not in conflict with federal  
250 law, related to incident safety, clean-up, and hazardous material handling;  
251 (c) specify the form and content of the posting and disclosure of fees and rates charged  
252 and acceptable forms of payment by a tow truck motor carrier or impound yard;  
253 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may  
254 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of  
255 the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as  
256 required in Subsection (1)(b); and  
257 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains  
258 specific information regarding:  
259 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;  
260 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow  
261 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or  
262 request where the owner of the vehicle, vessel, or outboard motor has not consented to the  
263 removal; and  
264 (iii) identifies the maximum rates that an impound yard may charge for the storage of  
265 vehicle, vessel, or outboard motor that is transported in response to a call or request where the  
266 owner of the vehicle, vessel, or outboard motor has not consented to the removal.  
267 (8) A tow truck motor carrier or a tow truck driver may not charge fees that are not  
268 expressly allowed in the Utah Consumer Bill of Rights Regarding Towing.  
269 ~~[(8)]~~ (9) An impound yard may not charge a fee for the storage of an impounded  
270 vehicle, vessel, or outboard motor if:  
271 (a) the vehicle, vessel, or outboard motor is being held as evidence; and  
272 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,  
273 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent

274 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section  
275 [41-6a-1406](#).

276 (10) For a tow truck service of a vehicle, vessel, or outboard motor that was requested  
277 without the consent of the owner, an impound yard shall make personnel available to release an  
278 impounded vehicle, vessel, or outboard motor to the owner or the owner's agent:

279 (a) during normal office hours; or

280 (b) during non-office hours, within two hours of a request.

281 Section 6. **Effective date.**

282 This bill takes effect on May 12, 2015, except the amendments in this bill to Section  
283 [72-9-602.5](#) take effect on May 10, 2016.